

USDOL/OALJ Reporter

Bragg v. Houston Lighting & Power Company, 94-ERA-38 (ALJ May 18, 1995)
Go to: [Law Library Directory](#) | [Whistleblower Collection Directory](#) | [Search Form](#) | [Citation Guidelines](#)

Date Issued: May 18, 1995

In the Matter of:

BRANDON BRAGG

Complainant

v.

Case No. 94-ERA-38

HOUSTON LIGHTING & POWER COMPANY

Respondent

**RECOMMENDED ORDER APPROVING SETTLEMENT
AND DISMISSING CASE**

This proceeding arises under the Energy Reorganization Act of 1974 (ERA), 42 U.S.C. § 5851 (1982), as amended, and the regulations promulgated thereunder at 29 C.F.R. Part 24 which are employee protective provisions of the ERA or of the Atomic Energy Act of 1954, as amended, 42 U.S.C. § 2011, *et seq.* The Secretary of Labor is empowered to investigate and determine "whistleblower" complaints filed by employees at facilities licensed by the Nuclear Regulatory Commission (NRC) who are allegedly discharged or otherwise discriminated against with regard to their terms and conditions of employment for taking any action relating to the fulfillment of safety or other requirements established by the NRC.

On or about September 30, 1994, Complainant Bragg filed a complaint with the United States Department of Labor alleging a retaliation charge against Houston Lighting & Power Company (herein HL&P) in Case No. 94-ERA-38.

On May 10, 1995, Counsel for HL&P and Complainant filed a Joint Motion For Approval of a Settlement Agreement and Dismissal with Prejudice based upon a compromise of the outstanding issues.

[PAGE 2]

The Agreement is signed by Complainant Brandon Bragg, Counsel for Complainant and Counsel for Respondent HL&P and purports to incorporate the understanding of the parties as to the basis of the

settlement. HL&P considers the terms of the settlement agreement to be confidential and HL&P and Complainant expressly request that they be notified of any Freedom of Information Act requests involving the settlement agreement, pursuant to 29 C.F.R. Part 70.26. The parties have moved that I recommend the case be dismissed with prejudice.

My review of the settlement agreement is limited to a determination of whether its terms are a fair, adequate and reasonable settlement of Brandon Bragg's complaints concerning violations of the Energy Reorganization Act. *Fuchko and Yanker v. Georgia Power Co.*, 89-ERA-9, 89-ERA-10 (Sec'y, March 23, 1989). The basic criteria under consideration is whether or not the settlement adequately protects the whistleblower. *Virginia Electric and Power Co.*, 19 FERC §61, 333 (Federal Energy Regulatory Commission, 1982). Further, the settlement must not be contrary to the public interests. *Heffley v. NGK Metals Corporation*, 89-SDW-2 (Sec'y, March 6, 1990).

After consideration of the settlement agreement and the representations of the parties, I find the agreement to be fair, adequate and reasonable, and I believe it is in the public interest to adopt the agreement as a basis for the administrative disposition of this matter. Therefore, in accordance with the authority conferred by 29 C.F.R. § 18.39(b), I recommend approval of the settlement agreement and dismissal with prejudice of the outstanding issues involving HL&P and Complainant Brandon Bragg, as set forth in the complaint which forms the basis of the proceedings in Case No. 94-ERA-38.

ORDERED this 18th day of May, 1995, at Metairie, Louisiana.

LEE J. ROMERO, JR.
Administrative Law Judge